

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CHARLES SWINT, Plaintiff, )  
v. )  
LT. OLIVER, et al., Defendants. )  
)  
) C.A. No. 23-232 Erie  
)  
) District Judge Susan Paradise Baxter  
) Magistrate Judge Kezia O. L. Taylor

## **MEMORANDUM ORDER**

Plaintiff Charles Swint, an inmate incarcerated at the State Correctional Institution at Albion, Pennsylvania (“SCI-Albion”), initiated this action by filing a *pro se* complaint with the Commonwealth Court of Pennsylvania on or about April 26, 2023. [ECF No. 1-1]. The Commonwealth Court transferred the case to the Court of Common Pleas of Erie County, Pennsylvania, and Defendants subsequently removed the case to this Court pursuant to a Notice of Removal dated August 8, 2023. [ECF No. 1]. This matter was referred to Chief United States Magistrate Judge Richard A. Lanzillo for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

On October 30, 2023, Plaintiff filed an amended complaint [ECF No. 28], which is the operative pleading in this case. Named as Defendants are several staff members at SCI-Albion; L.J. Oliver, Earl Jones, Patricia Thompson, Steven Soliwoda, Lt. Floyd, and UM. Seymour (incorrectly identified as “UM. Semore”). In his amended complaint, Plaintiff alleges that Defendants violated his Eighth Amendment rights by failing to protect him from abuse by other inmates, that Defendants Thompson and Jones violated his Fourteenth Amendment equal

protection rights, and that all Defendants retaliated against him in violation of his rights under the First Amendment.

After Defendants filed a motion to dismiss the amended complaint, Chief Magistrate Judge Lanzillo issued a Report and Recommendation on April 29, 2024, recommending that the motion be denied as to Plaintiff's Eighth Amendment claim against Defendants Soliwoda, Oliver, Thompson, Jones, and Floyd, but granted as to Plaintiff's remaining claims, without prejudice to Plaintiff's right to amend. [ECF No. 48]. Judge Lanzillo's Report and Recommendation was adopted by this Court by Memorandum Order dated May 22, 2024, which granted Plaintiff thirty (30) days from the date of the Order to file an amended complaint to correct the deficiencies related to his claims that were recommended for dismissal. [ECF No. 49].

After Plaintiff failed to file an amended complaint within the time period prescribed by this Court's Order, Plaintiff's Eighth Amendment failure to protect claim against Defendant Seymour, as well as his Fourteenth Amendment equal protection and retaliation claims against all Defendants, were dismissed with prejudice, by Order dated July 3, 2024. [ECF No. 51].<sup>1</sup> Thus, the only claim remaining in this case is Plaintiff's Eighth Amendment failure to protect claim against Defendants Soliwoda, Oliver, Thompson, Jones, and Floyd.

On October 17, 2024, this case was reassigned from Chief Magistrate Judge Lanzillo to United States Magistrate Judge Kezia O. L. Taylor, as referral judge for all further pretrial proceedings.

Thereafter, upon completion of discovery, the remaining Defendants filed a motion for summary judgment on November 6, 2024 [ECF No. 56], and Plaintiff was ordered to file a brief

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Since all claims against Defendant Seymour were dismissed by this Court Order of July 3, 2024, Defendant Seymour was terminated from this case on that date.

in opposition to Defendants' motion by December 6, 2024. [ECF No. 60]. After Plaintiff failed to file a timely opposition brief, Magistrate Judge Taylor issued a show cause order on January 21, 2025, directing Plaintiff to file a response to Defendants' motion by February 4, 2025, or suffer dismissal of this case for failure to prosecute [ECF No. 62]. Plaintiff failed to comply with this Order.

As a result, on March 17, 2025, Magistrate Judge Taylor issued a Report and Recommendation ("R&R"), recommending dismissal of this case for Plaintiff's failure to prosecute [ECF No. 63]. Objections to the R&R were due from Plaintiff by April 3, 2025; however, Plaintiff has failed to file any objections to date.

After de novo review of the documents in this case, together with the report and recommendation, the following order is entered:

AND NOW, this 15th day of April, 2025;

IT IS HEREBY ORDERED that this case is DISMISSED for Plaintiff's failure to prosecute, and Defendants' motion for summary judgment [ECF No. 56] is DISMISSED as moot. The Report and Recommendation of Magistrate Judge Taylor issued March 17, 2025 [ECF No. 63] is adopted as the opinion of the court.

The Clerk is directed to mark this case CLOSED.



SUSAN PARADISE BAXTER  
United States District Judge

cc: The Honorable Kezia O. L. Taylor  
United States Magistrate Judge

All parties of record